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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

20009.0153US01 (BS00-104)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on June 15, 2006

Signature

Typed or printed name Jeramie J. Keys

Application Number

09/746,500

Filed

December 22, 2000

First Named Inventor

Boehmke

Art Unit

2686

Examiner

Iqbal, K.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record. 42,724
Registration number☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Jeramie J. Keys

Typed or printed name

678-565-4748

Telephone number

June 15, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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S/N 09/746,500

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Boehmke	Examiner:	Iqbal
Serial No.:	09/746,500	Group Art Unit:	2686
Filed:	December 22, 2000	Docket No.:	20009.0153US01 (BS00-104)
Title:	SYSTEM, APPARATUS AND METHODS FOR MANAGING TELEPHONE CALL RECORDS		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 15, 2006.

By 

Name: Jeramie J. Keys

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In conjunction with a Notice of Appeal, reconsideration and allowance of the application is respectfully requested for at least the following reasons. The Notice of Appeal is being filed in response to a Final Office Action mailed on December 16, 2005, as well as an Advisory Action mailed on , 2006. The period for response has been extended by the concurrently filed Petition.

1. The Advisory Action Overlooked several claims

The Advisory Action mailed on March 20, 2006, states that

The applicant appears to suggest that all of the dial digits and call records are passed from the switch to the switch master. However, claims only recite all dial digits are transmitted from the plurality of switches in communication with a switch master. Farris teaches this limitation....

Applicants assert that the Advisory Action has failed to consider that the independent claims 32, 33, 37, and 41 specifically recite that all the telecommunication call records are received by the switch master from the plurality of switches. Therefore, if the rejection seeks to differentiate between the dial digits and the call records, then the statement regarding Farris disclosing all dial digits is not applicable to claims 32, 33, 37, and 41. It is independent claims 10 and 27 that refer to the switch master receiving all dial digits from the plurality of switches. Thus, the Advisory Action's statement regarding dial digits being transmitted to the switch master, as opposed to call records, is only applicable to claims 10 and 27 and the Advisory Action has failed to account for claims 32, 33, 37, and 41. Thus, asserting that Farris discloses transferring all dial digits to the switch master is inadequate in relation to claims 32, 33, 37, and 41. Furthermore, as noted below, Farris does not disclose sending all dial digits to the switch master, nor does Farris disclose sending all call records such that that Advisory Action further errs by asserting that Farris does disclose all dial digits being transmitted to the switch master.

2. No adequate reason has been provided regarding the re-introduction of Farris as an anticipatory reference when it was overcome by and removed as a reference as a result of a previous response.

The Final Office Action of December 16, 2005, and the Advisory Action of March 20, 2006, rely exclusively on Farris (U.S. Pat 6,504,907) to conclude that claims 10-12, 14-16, and 32 are anticipated. Furthermore, the Final Office Action and apparently the Advisory Action rely on Farris as the primary reference in concluding that claims 13, 17-31, 32-39, and 41 are anticipated and/or unpatentable.

Despite repeated attempts at explaining that Farris was previously overcome and requesting an appropriate explanation as to the re-introduction of Farris, see both the response of November 10, 2005, and the after final response of February 17, 2006, the Final Office Action

and the Advisory Action have maintained Farris as the anticipatory reference on the same grounds that were previously overcome.

As stated in the previous responses, Farris was used as the primary anticipatory reference in the Office Action of October 22, 2004. As a result of a response by the Applicants that included amendments and remarks addressing Farris, the rejections based on Farris were withdrawn and new rejections were provided based on a new reference, Swanson. Upon Applicants submitting arguments that overcame the rejections based on Swanson, the prior rejections based on Farris suddenly re-appeared without any explanation as to why the apparently convincing arguments of a January 24, 2005, response were no longer satisfactory. The amendments and arguments filed on January 24, 2005, were apparently convincing at that time and should continue to be convincing now. The pertinent portions of those arguments are reiterated and further emphasized below.

3. The cited references do not disclose sending all dial digits or all call records to a switch master.

Regardless of whether considering claims 10 and 27 that refer to all dial digits or claims 32, 33, and 41 that refer to all call records, Farris is inadequate.

The Final Office Action and the Advisory Action rely on the same grounds and citations as the October 22, 2004, Office Action, namely col. 25, lines 37-39 and 50-54.

No citations of Farris disclose the claim recitations regarding all dial digits or all call records going from the plurality of switches to the switch master. To the contrary, the system and method of Farris teaches an exclusive, call specific monitoring system that cannot and does not collect at a switch master all the dial digits or call records generated by a plurality of switches. Instead, Farris specifically teaches a law enforcement surveillance system that depends upon the pre-identification of a subject under surveillance and assigning a specific CLASS code to alert the system to capture those specific call records or dialing digits of that subject. (See Col. 7, l. 35-45; Col. 8, l. 48-52). Furthermore, the card cages (33) and site processor (35) filter out all records not associated with a surveillance. (See Col. 19, l. 40-45). Therefore, Farris teaches that only a limited number of call records or dial digits are passed through the RAO or site processor and on to the server 39 for storage, as opposed to passing all dial digits or call records from the plurality of switches to the switch master.

Indeed, since Farris is operating for the purpose of surveillance of subjects, Farris must avoid having all dial digits or call records of switches being collected at the RAO since switches handle calls of many subscribers and not just those that happen to be under surveillance. Thus, not only does Farris not disclose collecting all dial digits or all call records at the RAO, it is important that Farris avoids collecting all dial digits or all call records. Farris implements the special CLASS codes mentioned above for that very purpose, avoiding collecting all dial digits or call records at the RAO since it is only those call records of the subject under surveillance that are of significance in Farris. Accordingly, Farris also cannot be modified to collect all the dial digits or call records because doing so would require changing the principle of operation of Farris, i.e. implementation of the CLASS codes to limit the call records being collected, such that no motivation to modify Farris can exist.

Regarding the citation to Col. 25, lines 37-39 and 50-54, this section must be read carefully and fully in context. It must be noted that this section is referring only to calls regarding station 1_B. A review of FIG. 2 and the introductory discussion of station 1_B reveals that this is a phone line of a subject under surveillance. Farris specifically states that “In our example, the CLASS codes in the profile for station 1_B include the code for surveillance.” So, collecting all dial digits or all call records of station 1_B may be possible and even desirable in Farris, but collecting all dial digits or all call records of a single phone line does NOT meet the claim recitations regarding all dial digits or all call records of the switches being sent to the switch master since there will necessarily be other dial digits or call records from phone lines not under surveillance that are not sent to the RAO. The switches of Farris receive many more dial digits or call records than just those involving station 1_B. Thus, all digits or records for station 1_B are just a subset and are not the same as all dial digits or call records of the plurality of switches. Asserting that Farris transfers all dial digits or all call records from the plurality of switches to a switch master is not sustainable.

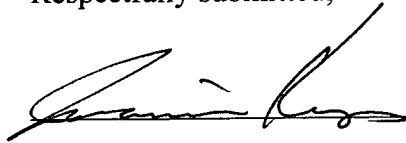
Thus, Farris cannot anticipate nor render obvious the pending claims 10-16, 27-39, and 41. As the secondary reference Lowe also do not account for these inadequacies of Farris, those rejections based on Farris in view of Lowe also cannot be sustained.

Applicants assert that claims 10-16, 27-39, and 41 are in condition for allowance for at least these reasons. Applicants request that the §102 and 103 rejections to these claims be

withdrawn based on the remarks above and further request that an indication of allowable subject matter be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due beyond the fee for the Notice of Appeal and the fee for the extension of time. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeramie J. Keys", written over a horizontal line.

Jeramie J. Keys
Reg. No. 42,724

Date: June 15, 2006

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